IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9762 of 2000
with
SPECIAL CIVIL APPLICATION Nos 10005 TO 10017 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RADHEY PAPERS PVT LTD

Versus

DY COLLECTOR

Appearance:
MR MP PRAJAPATI for Petitioner
MR AD OZA, GOVERNMENT PLEADER for Respondents

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/08/2001

COMMON ORAL JUDGEMENT

Rule. Service of Rule is waived by Mr AD Oza, learned Government Pleader appearing for the respondent authorities. In the facts and circumstances of the case, the petitions are taken up for final disposal today.

2. This group of petitions, 14 in number, arises from the adjudication with regard to valuation of the properties under the Bombay Stamp Act, 1958 (hereinafter referred to as "the Act") in respect of the sale documents by which the petitioner-Company purchased parcels of non-agricultural land in different blocks of village Ranasar, Taluka Matar in District Kheda. The valuation placed by the authorities under the Act on the aforesaid properties has resulted into increase in the stamp duty payable by the petitioner-Company as also the penalty by virtue of the provisions of Section 32A of the Act.

3. The Deputy Collector (Stamp Duty Valuation), Nadiad issued show cause notices calling upon the petitioner to show cause why the market value tentatively placed by the Deputy Collector on the properties in question should not be determined for the properties in question and the additional stamp duty should not be recovered from the petitioner with penalty as mentioned in the show cause notices. It is the case of the petitioner that the Deputy Collector issued intimations dated 9.2.1999 requiring the petitioner-Company's representative to remain present before respondent No. 1 on 17.2.2000. However, such intimations dated 9.2.1999 were received by the petitioner-Company in the evening of 17.2.2000. Hence, the representative of the petitioner Company could approach the Deputy Collector only on 18.2.2000. When the representative inquired about the date of hearing from the office of respondent No. 1, he was informed that the intimation regarding the next date of hearing would be sent to the petitioner-Company. However, thereafter the petitioner has received the orders dated 31.2.1999. The petitioner Company thereafter preferred appeals with applications for condonation of delay for challenging the aforesaid orders passed by the Deputy Collector. The petitioner-Company produced the documents in support of its case and its representative remained present at the hearing before the Chief Controlling Revenue Authority. However, by impugned orders dated 16.6.2000, the Chief Controlling Revenue Authority, respondent No. 2 herein, disposed of all the appeals by reducing to some extent the market value of the properties and consequentially demanded for additional stamp duty to certain extent. Hence these petitions.

4. The principal grievance of the petitioner-Company as urged on its behalf by Mr Prajapati is that the petitioner-Company was not given a reasonable opportunity

of showing cause because the Deputy Collector did not disclose the basis on which the tentative market value of the properties was determined. It is submitted that there was non-compliance with the provisions of Rule 4(2) of the Bombay Stamp (Determination of Market Value of Property) Rules, 1984.

5. On the other hand, Mr AD Oza, learned Government Pleader for the respondents has submitted that both the authorities have taken all the relevant facts into account before determining the market value of the properties and, therefore, the orders do not call for any interference.

6. Having heard the learned counsel for the parties and considering the fact that the Deputy Collector had not indicated the basis on which he had tentatively determined the market value of the properties in question, it appears to the Court that the interests of justice would be served if the matter is remanded to the Deputy Collector requiring him to give a fresh show cause notice indicating the basis on which the market value of the properties is tentatively determined by him and the petitioner is given an opportunity of meeting with the same.

7. In view of the above discussion, the petitions are allowed. The impugned order dated 31.3.1999 and 6.6.2000 passed by respondent Nos. 1 and 2 respectively are hereby quashed and set aside and the matters are remanded to respondent No.1-Deputy Collector (Stamp Duty Valuation), Nadiad with liberty to issue fresh show cause notice indicating the basis on which the Deputy Collector has tentatively determined the market value of the properties in question and give the petitioner a reasonable opportunity of meeting with the same. Thereafter, the Deputy Collector shall pass appropriate orders in accordance with law.

It is clarified that this Court has not gone into the merits of the controversy between the parties and the Deputy Collector shall decide the matter afresh.

8. The amounts of additional stamp duty deposited by the petitioner with the Deputy Collector for the purpose of filing appeals before the Chief Controlling Revenue Authority shall abide by the outcome of the proceedings pursuant to this order of remand.

Rule is made absolute in each petition accordingly with no order as to costs.

(M.S. Shah, J.)

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